

Exhibit A

Marc Toggia, M.D.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

IN RE: ETHICON, INC. : Master File No.
PELVIC REPAIR SYSTEM : 2:12-MD-
PRODUCTS LIABILITY LITIGATION : MDL 2327
:
: JOSEPH R.
THIS DOCUMENT RELATES TO : GOODWIN
THE CASES LISTED BELOW : US DISTRICT
JUDGE

Mullins, et al. v. Ethicon, Inc., et al.
2:12-cv-02952
Sprout, et al. v. Ethicon, Inc., et al.
2:12-cv-07924
Iquinto v. Ethicon, Inc., et al.
2:12-cv-09765
Daniel, et al. v. Ethicon, Inc., et al.
2:13-cv-02565
Dillon, et al. v. Ethicon, Inc., et al.
2:13-cv-02919
Webb, et al. v. Ethicon, Inc., et al.
2:13-cv-04517
Martinez v. Ethicon, Inc., et al.
2:13-cv-04730
McIntyre, et al. v. Ethicon, Inc., et al.
2:13-cv-07283
Oxley v. Ethicon, Inc., et al.
2:13-cv-10150
Atkins, et al. v. Ethicon, Inc., et al.
2:13-cv-11022
Garcia v. Ethicon, Inc., et al.
2:13-cv-14355

(Caption Continued on Next Page)

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October 2, 2015

VIDEOTAPED DEPOSITION MARC TOGLIA, M.D.

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1 internal Ethicon communications. I
2 looked at some of the -- the expert
3 opinions provided by the plaintiffs'
4 side. We looked at, you know, animal
5 studies, in vitro studies. Although,
6 again, recognizing that those are really
7 Level 5 evidence data, that you really
8 can't draw any clinical inference or --
9 or application directly to the TVT
10 device. Those were looked at as well.

11 Q. You saw that plaintiffs'
12 experts cited to a bunch of hernia
13 documents, prolapse documents, animal
14 studies in their reports?

15 A. Yes, I saw that. Yes.

16 Q. And I believe you earlier
17 told plaintiffs' counsel you were shocked
18 at their methodology; is that accurate?

19 A. I would -- I would --

20 MS. THOMPSON: Object to
21 form.

22 THE WITNESS: I was -- I did
23 not find their methodology to be
24 scientifically rigorous. They did

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1 not seem to include the Level 1
2 studies, randomized control
3 trials. They did not refer to the
4 systematic reviews.

5 Their focus seemed to be
6 largely on very low-level, almost
7 insignificant things that really
8 had no direct application to the
9 TVT design, safety or the device
10 when it's used in its intended
11 manner to treat stress urinary
12 incontinence.

13 BY MR. SNELL:

14 Q. So for these hernia
15 documents or hernia studies that the
16 plaintiffs' experts, like Dr. Elliott,
17 seem to cite on every page of his report,
18 would those even fit on the evidence
19 pyramid, if one was to do a proper
20 methodologic scientific review to assess
21 the safety of TVT for its intended use to
22 treat stress urinary incontinence?

23 MS. THOMPSON: Object to
24 form.

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1 THE WITNESS: Within the --
2 within the context, those would
3 not figure as well. Those would
4 usually be discarded as being not
5 relevant to the TVT sling, the
6 device or its design.

7 BY MR. SNELL:

8 Q. You brought these evidence
9 pyramids.

10 MR. SNELL: I'd like to mark
11 them as exhibits.

12 - - -

13 (Whereupon, Exhibit
14 Toggia-17, Level of Evidence
15 Chart, was marked for
16 identification.)

17 - - -

18 (Whereupon, Exhibit
19 Toggia-18, Level of Evidence
20 Pyramid, was marked for
21 identification.)

22 - - -

23 BY MR. SNELL:

24 Q. Doctor, Exhibits 17 and 18,

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1 are those the level of evidence pyramids
2 you brought?

3 **A.** Yes.

4 **Q.** Are those important in
5 conducting a proper -- strike that.

6 Is utilizing the highest
7 levels of evidence important in assessing
8 the question, is the TVT reasonably safe
9 for its intended use to treat stress
10 urinary incontinence, in your opinion?

11 **A.** Absolutely. I mean, the
12 foundation of any systematic review is to
13 start with your highest level of
14 evidence. If you have the highest level
15 of evidence, then the lower levels of
16 evidence typically are not given weight.

17 Certainly if they are
18 incongruent -- if the lower evidence --
19 levels of evidence are incongruent with
20 the higher levels of evidence, it just
21 simply validates and verifies the
22 uselessness of those articles.

23 **Q.** And I believe you testified
24 your methodology was to look at the

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1 CERTIFICATE

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Amanda Maslynsky-Miller

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Certified Realtime Reporter

Dated: October 5, 2015

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